

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 133

AN ACT

To repeal sections 441.500, 441.510, 441.520, 441.550, 441.590, 447.700 and 447.708, RSMo 2000, relating to property development, and to enact in lieu thereof eight new sections relating to the same subject, with an expiration date for a certain section.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 441.500, 441.510, 441.520, 441.550, 441.590, 447.700 and 447.708, RSMo 2000, are repealed and eight new sections enacted in lieu thereof, to be known as sections 441.500, 441.510, 441.520, 441.550, 441.590, 447.700, 447.708 and 447.721, to read as follows:

441.500. As used in sections 441.500 to 441.643, the following terms mean:

(1) "Abatement", the removal or correction, including demolition, of any condition at a property that violates the provisions of any duly enacted building or housing code, as well as the making of such other improvements or corrections as are needed to effect the rehabilitation of the property or structure, including the closing or physical securing of the structure;

(2) "Agent", a person authorized by an owner to act for him;

(3) "Code enforcement agency", the official, agency, or board that has been delegated the responsibility for enforcing the housing code by the governing body;

- (4) "Community", any county or municipality;
- (5) "County", any county in the state;
- (6) "Dwelling unit", premises or part thereof occupied, used, or held out for use and occupancy as a place of abode for human beings, whether occupied or vacant;
- (7) "Governing body", the board, body or persons in which the powers of a community are vested;
- (8) "Housing code", a local building, fire, health, property maintenance, nuisance or other ordinance which contains standards regulating the condition or maintenance of residential buildings;
- (9) "Local housing corporation", a not for profit corporation organized pursuant to the laws of the state of Missouri for the purpose of promoting housing development and conservation within a specified area of a municipality or an unincorporated area;
- (10) "Municipality", any incorporated city, town, or village;
- (11) "Neighborhood association", any group of persons organized for the sole purpose of improvement of a particular geographic area having specific boundaries within a municipality, provided that such association is recognized by the municipality as the sole association for such purpose within such geographic area;
- (12) "Notice of deficiency", a notice or other order issued by the code enforcement agency and requiring the elimination or removal of deficiencies found to exist under the housing code;
- [(12)] (13) "Nuisance", a violation of provisions of the

housing code applying to the maintenance of the buildings or dwellings which the code official in the exercise of reasonable discretion believes constitutes a threat to the public health, safety or welfare;

[(13)] (14) "Occupant", any person occupying a dwelling unit as his or her place of residence, whether or not that person is occupying the dwelling unit as a tenant from month to month or under a written lease, undertaking or other agreement;

[(14)] (15) "Owner", the record owner or owners, and the beneficial owner or owners when other than the record owner, of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, personal representative, trustee, lessee, agent, or any other person in control of a dwelling unit;

[(15)] (16) "Person", any individual, corporation, association, partnership, or other entity.

441.510. 1. If any building or dwelling is found to be in violation of building or housing codes which the county [or], municipality, local housing corporation or neighborhood association in the exercise of reasonable discretion believes constitutes a threat to the public health, safety or welfare, and alleges the nature of such threat in its petition, the county [or], municipality, local housing corporation or neighborhood association, in addition to any other remedies available to it, may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement.

2. At least sixty days prior to the filing of an application for appointment of a receiver pursuant to sections

441.500 to 441.643, the county [or], municipality, local housing corporation or neighborhood association shall give written notice by regular mail to all interested parties of its intent to file the application and information relative to:

- (1) The identity of the property;
- (2) The violations of the building or housing codes giving rise to the application for the receiver;
- (3) The name, address and telephone number of the person or department where additional information can be obtained concerning violations and their remedy; and
- (4) The county [or], municipality, local housing corporation or neighborhood association which may seek the appointment of a receiver pursuant to sections 441.500 to 441.643 unless action is taken within sixty days by an interested party.

3. A county [or], municipality, local housing corporation or neighborhood association may not apply for the appointment of a receiver pursuant to sections 441.500 to 441.643 if an interested party has commenced and is then prosecuting in a timely fashion an action or other judicial or nonjudicial proceeding to foreclose a security interest on the property, or to obtain specific performance of a land sale contract, or to forfeit a purchaser's interest under a land sale contract.

4. Notice of the application for the appointment of a receiver shall be served on all interested parties.

5. If, following the application for appointment of a receiver, one or more of the interested parties elects to correct the conditions at the property giving rise to the [county's or municipality's] application for the appointment of a receiver,

the party or parties shall be required to post security in an amount and character as the court deems appropriate to ensure timely performance of all work necessary to make corrections, as well as such other conditions as the court deems appropriate to effect the timely completion of the corrections by the interested party or parties.

6. In the event that no interested party elects to act pursuant to subsection 5 of this section or fails to timely perform work undertaken pursuant to subsection 5 of this section, the court shall make a determination that the property is in an unsafe or insanitary condition and appoint a receiver to complete the abatement.

7. A receiver appointed by the court pursuant to sections 441.500 to 441.643 shall not be required to give security or bond of any sort prior to appointment.

441.520. 1. The action to appoint a receiver authorized by section 441.510 shall be commenced by the filing of a verified petition by the county [or], municipality, local housing corporation or neighborhood association.

2. There shall be named as defendants:

(1) The last owner of record of the dwelling as of the date of the filing of the petition; and

(2) The last holder of record of any mortgage, deed of trust, or other lien of record against the building as of the date of the filing of the petition.

3. Any owner of the dwelling who is not a party defendant may be permitted by the court to join as a party defendant.

4. (1) Any owner, whether or not a citizen or resident of

this state, who in person or through agent, owns, uses, or is possessed of any real estate situated in this state thereby subjects himself or itself to the jurisdiction of the courts of this state as to any cause of action arising pursuant to the provisions of sections 441.500 to 441.643. Personal service of process shall be made in accordance with the rules of civil procedure; provided that, if such service cannot with due diligence be made, service of process may be made by personally serving process upon the defendant outside this state, or by service in accordance with the rules of civil procedure as in all cases affecting a res within the jurisdiction of the court.

(2) If a landlord of residential property is not a resident of this state or is a corporation, [he must] the landlord shall designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to transact business in this state. The designation shall be in writing and include the address and the name of the registered agent and shall be filed in the office of the secretary of state. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the secretary of state, but service upon him or her is not effective unless the petitioner forthwith mails a copy of the process and pleading by certified mail to the defendant or respondent at the address stated on the assessor's records for the subject property. An affidavit of compliance with this section shall be filed with the clerk of the court.

5. Any action brought pursuant to the provisions of

sections 441.500 to 441.643 shall be expedited by the court and may be given precedence over other suits.

441.550. In any application for receivership brought pursuant to sections 441.500 to 441.643, the county [or], municipality, local housing corporation or neighborhood association shall file for record, with the recorder of deeds of the county in which any such real estate is situated, a written notice of the pendency of the suit pursuant to the requirements of section 527.260, RSMo. From the time of filing such notice the pendency of suit shall be constructive notice to persons thereafter acquiring an interest in the building.

441.590. 1. The court may, in any order entered pursuant to section 441.570:

(1) Authorize the receiver to draw upon the rents deposited in court to pay for the cost of necessary repairs upon presentment to the court of the original copy of any invoice for work performed or materials purchased;

(2) Appoint the code enforcement agency, the mortgagee or other lienor of record, a local housing corporation established to promote housing development and conservation in the area in which such property that is the subject of receivership is located or, if no local housing corporation exists for such area, then the local neighborhood association, a licensed attorney or real estate broker, or any other qualified person, as a receiver provided, however, that all lienholders of record shall be given the right of first refusal to serve as receiver in the order in which their lien appears of record. In the event of the refusal of all lienholders of record to serve as receiver or in the

absence of any lienholders of record, the local housing corporation that is established to promote housing development and conservation in the area in which such property that is the subject of receivership is located, if any, shall be given the right of first refusal to serve as receiver for any residential property consisting of four units or less; provided that, if no local housing corporation exists for such area, then the local neighborhood association shall be given such right of first refusal; or

(3) Where the building is vacant, appoint the code enforcement agency, the mortgagee or other lienor of record, a local housing corporation established to promote development and conservation in the area in which such property that is the subject of receivership is located or, if no local housing corporation exists for such area, then the local neighborhood association, a licensed attorney or real estate broker, or any other qualified person, as a receiver to remove all of the housing code violations which constitute a nuisance as found by the court, except that all lienholders of record shall be given the right of first refusal to serve as receiver in the order in which their liens appear of record. In the event of the refusal of all lienholders of record to serve as receiver or in the absence of any lienholders of record, the local housing corporation that is established to promote development and conservation in the area in which such property that is the subject of receivership is located, if any, shall be given the right of first refusal to serve as receiver for any residential property consisting of four units or less; provided that, if no

local housing corporation exists for such area, then the local neighborhood association shall be given such right of first refusal.

2. The court may allow a receiver reasonable and necessary expenses, payable from the rent moneys.

3. No receiver appointed shall serve without bond. The amount and form of such bond shall be approved by the court and the cost of such bond shall be paid from the moneys so deposited.

4. The receiver may, on order of the court, take possession of the property, collect all rents and profits accruing from the property, and pay all costs of management, including all insurance premiums and all general and special real estate taxes or assessments.

5. The receiver shall with all reasonable speed remove all of the housing code violations which constitute a nuisance as found by the court, and may make other improvements to effect a rehabilitation of the property in such fashion as is consistent with maintaining safe and habitable conditions over the remaining useful life of the property. The receiver shall have the power to let contracts therefor, in accordance with the provisions of local laws, ordinances, rules and regulations applicable to contracts.

6. The receiver may with the approval of the circuit court borrow money against, and encumber, the property as security therefor in such amounts as may be necessary to carry out his or her responsibilities pursuant to sections 441.500 to 441.643. The circuit court may authorize the receiver to issue receiver's certificates as security against such borrowings, which

certificates shall be authorized investments for banks and savings and loan associations, and shall constitute a first lien upon the property and its income and shall be superior to any claims of the receiver and to all prior or subsequent liens and encumbrances except taxes and assessments, and shall be enforceable as provided in subsection 8 of this section.

7. In addition to issuance of receiver certificates, the receiver may pledge the rentals from the property and borrow or encumber the property on the strength of the rental income.

8. Any receiver appointed pursuant to the provisions of sections 441.500 to 441.643 shall have a lien, for the expenses necessarily incurred in the execution of an order, upon the rents receivable from the premises on or in respect of which the work required by such order has been done or expenses incurred, and this lien shall have priority over all other liens and encumbrances of record upon the rents receivable from the premises, except taxes, assessments, receiver's certificates, and mortgages recorded prior to October 13, 1969.

9. For the purposes of this section, "local housing corporation" shall mean only those local housing corporations established prior to ~~[April 28, 1999]~~ August 28, 2001.

447.700. As used in sections 447.700 to 447.718, the following terms mean:

(1) "Abandoned property", real property previously used for, or which has the potential to be used for, commercial or industrial purposes which reverted to the ownership of the state, a county, or municipal government, or an agency thereof, through donation, purchase, tax delinquency, foreclosure, default or

settlement, including conveyance by deed in lieu of foreclosure; or a privately owned property endorsed by the city, or county if the property is not in a city, for inclusion in the program which will be transferred to a person other than the potentially responsible party as defined in chapter 260, RSMo, and has been vacant for a period of not less than three years from the time an application is made to the department of economic development;

(2) "Allowable cost", all or part of the costs of project facilities, including the costs of acquiring the property, relocating any remaining occupants, constructing, reconstructing, rehabilitating, renovating, enlarging, improving, equipping or furnishing project facilities, demolition, site clearance and preparation, backfill, supplementing and relocating public capital improvements or utility facilities, designs, plans, specifications, surveys, studies and estimates of costs, expenses necessary or incident to determining the feasibility or practicability of assisting an eligible project or providing project facilities, architectural, engineering and legal service fees and expenses, the costs of conducting any other activities as part of a voluntary remediation and such other expenses as may be necessary or incidental to the establishment or development of an eligible project and reimbursement of moneys advanced or applied by any governmental agency or other person for allowable costs. Allowable costs shall also include the demolition and reconstruction of any building or structure which is not the object of remediation as defined in section 260.565, RSMo, but which is located on the site of an abandoned or underutilized property approved for financial assistance pursuant to sections

447.702 to 447.708, provided that any such demolition is contained in a redevelopment plan approved by the director of the department of economic development and the municipal or county government having jurisdiction in the area in which the project is located;

(3) "Applicant", the person that submits an application for consideration of a project or location or real property for financial, tax credit or other assistance pursuant to sections 447.700 to 447.718; an applicant may not be any party who intentionally or negligently caused the release or potential release of hazardous substances at the eligible project as that term is defined pursuant to chapter 260, RSMo;

(4) "Eligible project", abandoned or underutilized property to be acquired, established, expanded, remodeled, rehabilitated or modernized for industry, commerce, distribution or research, or any combination thereof, the operation of which, alone or in conjunction with other facilities, will create new jobs or preserve existing jobs and employment opportunities, attract new businesses to the state, prevent existing businesses from leaving the state and improve the economic welfare of the people of the state. The term "eligible project", without limitation, includes voluntary remediation conducted pursuant to sections 260.565 to 260.575, RSMo. To be an "eligible project" pursuant to sections 447.700 to 447.718, the obligations of the prospective applicant and the governmental agency shall be defined in a written agreement signed by both parties. The facility, when completed, shall be operated in compliance with applicable federal, state and local environmental statutes, regulations and ordinances. An

"eligible project" shall be determined by consideration of the entire project. The definition or identification of an "eligible project" shall not be segmented into parts to separate commercial and industrial uses from residential uses. Any property immediately adjacent to any abandoned or underutilized property may also be an "eligible project" pursuant to section 447.700 to 447.718, provided that the abandoned or underutilized property otherwise meets the qualifications of this subdivision;

(5) "Financial assistance", direct loans, loan guarantees, and grants pursuant to sections 447.702 to 447.706; and tax credits, inducements and abatements pursuant to section 447.708;

(6) "Governmental action", any action by a state, county or municipal agency relating to the establishment, development or operation of an eligible project and project facilities that the governmental agency has authority to take or provide for the purpose under law, charter or ordinance, including but not limited to, actions relating to contracts and agreements, zoning, building, permits, acquisition and disposition of property, public capital improvements, utility and transportation service, taxation, employee recruitment and training, and liaison and coordination with and among governmental agencies;

(7) "Governmental agency", the state, county and municipality and any department, division, commission, agency, institution or authority, including a municipal corporation, township, and any agency thereof and any other political subdivision or public corporation; the United States or any agency thereof; any agency, commission or authority established pursuant to an interstate compact or agreement and any

combination of the above;

(8) "Person", any individual, firm, partnership, association, limited liability company, corporation or governmental agency, and any combination thereof;

(9) "Project facilities", buildings, structures and other improvements and equipment and other property or fixtures, excluding small tools, supplies and inventory, and public capital improvements;

(10) "Public capital improvements", capital improvements or facilities owned by a governmental agency and which such agency has authority to acquire, pay the costs of, maintain, relocate or operate, or to contract with other persons to have the same done, including but not limited to, highways, roads, streets, electrical, gas, water and sewer facilities, railroad and other transportation facilities, and air and water pollution control and solid waste disposal facilities;

(11) "Underutilized", real property of which less than thirty-five percent of the commercially usable space of the property and improvements thereon, are used for their most commercially profitable and economically productive use; or property that was used by the state of Missouri as a correctional center for a period of at least one hundred years and which requires environmental remediation before redevelopment can occur, if approval from the general assembly has been given for any improvements to, or remediation, lease or sale of, said property;

(12) "Voluntary remediation", an action to remediate hazardous substances and hazardous waste pursuant to sections

260.565 to 260.575, RSMo.

447.708. 1. For eligible projects, the director of the department of economic development, with notice to the directors of the departments of natural resources and revenue, and subject to the other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may decide that a prospective operator of a facility being remedied and renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to 135.150, RSMo, and sections 135.200 to [135.256] 135.257, RSMo. The tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. For purposes of this subsection:

(1) For receipt of the ad valorem tax abatement pursuant to section 135.215, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and not more than twenty-five years;

(2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof. For purposes of sections

447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows: the tax credit shall be four hundred dollars per employee per year, an additional four hundred dollars per year for each employee exceeding the minimum employment thresholds of ten and twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars per year for each person who is "a person difficult to employ" as defined by section 135.240, RSMo, and investment tax credits at the same amounts and levels as provided in subdivision (4) of subsection 1 of section 135.225, RSMo;

(3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of section 135.245, RSMo, for application and use of the refund and the eligibility requirements of this section;

(4) The eligible project operates in compliance with applicable environmental laws and regulations, including permitting and registration requirements, of this state as well as the federal and local requirements;

(5) The eligible project operator shall file such reports as may be required by the director of economic development or the director's designee;

(6) The taxpayer may claim the state tax credits authorized by this subsection and the state income exemption for a period not in excess of ten consecutive tax years. For the purpose of this section, "taxpayer" means an individual proprietorship,

partnership or corporation described in section 143.441 or 143.471, RSMo, who operates an eligible project. The director shall determine the number of years the taxpayer may claim the state tax credits and the state income exemption based on the projected net state economic benefits attributed to the eligible project;

(7) For the purpose of meeting the new job requirement prescribed in subdivisions (1), (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and maintained during the taxpayer's tax period for which the credits are earned, in the case of an eligible project that does not replace a similar facility in Missouri. "New job" means a person who was not previously employed by the taxpayer or related taxpayer within the twelve-month period immediately preceding the time the person was employed by that taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned. For the purposes of this section, "related taxpayer" has the same meaning as defined in subdivision (9) of section 135.100, RSMo;

(8) For the purpose of meeting the existing job retention requirement, if the eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, it shall be required that at least twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time basis during the taxpayer's tax period for which the

credits are earned. "Retained job" means a person who was previously employed by the taxpayer or related taxpayer, at a facility similar to the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, within the tax period immediately preceding the time the person was employed by the taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned;

(9) In the case where an eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the owner and operator of the eligible project shall provide the director with a written statement explaining the reason for discontinuing operations at the closed facility. The statement shall include a comparison of the activities performed at the closed facility prior to the date the facility ceased operating, to the activities performed at the eligible project, and a detailed account describing the need and rationale for relocating to the eligible project. If the director finds the relocation to the eligible project significantly impaired the economic stability of the area in which the closed facility was located, and that such move was detrimental to the overall economic development efforts of the state, the director may deny the taxpayer's request to claim tax benefits;

(10) Notwithstanding any provision of law to the contrary, for the purpose of this section, the number of new jobs created

and maintained, the number of existing jobs retained, and the value of new qualified investment used at the eligible project during any tax year shall be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month of the tax year. If the eligible project is in operation for less than the entire tax year, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment created at the eligible project during any tax year shall be determined by dividing the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month during the portion of the tax year during which the eligible project was in operation, by the number of full calendar months during such period;

(11) For the purpose of this section, "new qualified investment" means new business facility investment as defined and as determined in subdivision (7) of section 135.100, RSMo, which is used at and in connection with the eligible project. "New qualified investment" shall not include small tools, supplies and inventory. "Small tools" means tools that are portable and can be hand held.

2. The determination of the director of economic development pursuant to subsection 1 of this section, shall not affect requirements for the prospective purchaser to obtain the

approval of the granting of real property tax abatement by the municipal or county government where the eligible project is located.

3. (1) The director of the department of economic development, with the approval of the director of the department of natural resources, may, in addition to the tax credits allowed in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one hundred percent of the costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, demolition [and], asbestos abatement, and direct utility charges for performing the voluntary remediation activities for the preexisting hazardous substance contamination and releases, including, but not limited to, the costs of performing operation and maintenance of the remediation equipment at the property beyond the year in which the systems and equipment are built and installed at the eligible project and the costs of performing the voluntary remediation activities over a period not in excess of four tax years following the taxpayer's tax year in which the system and equipment were first put into use at the eligible project, provided the remediation activities are the subject of a plan submitted to, and approved by, the director of natural resources pursuant to sections 260.565 to 260.575, RSMo.

(2) The director of the department of economic development, with the approval of the director of the department of natural resources, shall, in addition to the tax credits otherwise allowed in this section, grant a demolition tax credit to the applicant for up to one hundred percent of the costs of

demolition that are not part of the voluntary remediation activities, provided that the demolition is either on the property where the voluntary remediation activities are occurring or on any adjacent property, and that the demolition is part of a redevelopment plan approved by the municipal or county government and the department of economic development.

(3) The amount of remediation and demolition tax credits issued shall be limited to the least amount necessary to cause the project to occur, as determined by the director of the department of economic development.

(4) The director may, with the approval of the director of natural resources, extend the tax credits allowed for performing voluntary remediation maintenance activities, in increments of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed in this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The remediation and demolition tax credit may be taken in the same tax year in which the tax credits are received or may be taken over a period not to exceed twenty years.

(5) The project facility [is] shall be projected to create at least ten new jobs or at least twenty-five retained jobs, or a combination thereof, as determined by the department of economic development, to be eligible for tax credits pursuant to this section.

(6) No more than seventy-five percent of earned remediation

tax credits may be issued when the remediation costs were paid, and the remaining percentage may be issued when the department of natural resources issues a "Letter of Completion" letter or covenant not to sue following completion of the voluntary remediation activities. It shall not include any costs associated with ongoing operational environmental compliance of the facility or remediation costs arising out of spills, leaks, or other releases arising out of the ongoing business operations of the facility.

4. In the exercise of the sound discretion of the director of the department of economic development or the director's designee, the tax credits and exemptions described in this section may be terminated, suspended or revoked, if the eligible project fails to continue to meet the conditions set forth in this section. In making such a determination, the director shall consider the severity of the condition violation, actions taken to correct the violation, the frequency of any condition violations and whether the actions exhibit a pattern of conduct by the eligible facility owner and operator. The director shall also consider changes in general economic conditions and the recommendation of the director of the department of natural resources, or his or her designee, concerning the severity, scope, nature, frequency and extent of any violations of the environmental compliance conditions. The taxpayer or person claiming the tax credits or exemptions may appeal the decision regarding termination, suspension or revocation of any tax credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section 135.250, RSMo. The director of the

department of economic development shall notify the directors of the departments of natural resources and revenue of the termination, suspension or revocation of any tax credits as determined in this section or pursuant to the provisions of section 447.716.

5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245, RSMo, respectively, for the same facility for the same tax period.

6. The total amount of the tax credits allowed in subsection 1 of this section may not exceed the greater of:

(1) That portion of the taxpayer's income attributed to the eligible project; or

(2) One hundred percent of the total business' income tax if the eligible facility does not replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; or

twenty-five percent of the total business income if the taxpayer operates, in addition to the eligible facility, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period. That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225, RSMo, and subsection 3 of this section, may apply, shall be determined in the same manner as prescribed in subdivision (6) of section 135.100, RSMo. That portion of the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision (6) of section 135.100, RSMo.

7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits shall not be carried forward but shall be initially claimed for the tax period during which the eligible project was first capable of being used, and during any applicable subsequent tax periods.

8. Taxpayers claiming the remediation tax credit allowed in subsection 3 of this section shall be required to file all

applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use, or during the taxpayer's tax period immediately after the tax period in which the voluntary remediation activities were performed.

9. The recipient of remediation tax credits, for the purpose of this subsection referred to as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in subsection 3 of this section, to any other person, for the purpose of this subsection referred to as assignee. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address and the assignee's tax period and the amount of tax credits to be transferred. The number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously claimed the credits before the transfer occurred.

10. In the case where an operator and assignor of an eligible project has been certified to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and sells or otherwise transfers title of the eligible project to another taxpayer or assignee who continues the same or substantially similar operations at the eligible project, the director shall allow the assignee to claim the credits for a period of time to be determined by the director; except that, the

total number of tax periods the tax credits may be earned by the assignor and the assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount of tax credits to be transferred.

11. For the purpose of the state tax benefits described in this section, in the case of a corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax liability, such state benefits shall be allowed to the following:

(1) The shareholders of the corporation described in section 143.471, RSMo;

(2) The partners of the partnership.

The credit provided in this subsection shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

447.721. 1. There is hereby created in the state treasury the "Contiguous Property Redevelopment Fund", which shall consist of all moneys appropriated to the fund, all moneys required by law to be deposited in the fund, and all gifts, bequests or donations of any kind to the fund. The fund shall be administered by the department of economic development. Subject to appropriation, the fund shall be used solely for the administration of and the purposes described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the

general revenue fund at the end of the biennium; provided, however, that all moneys in the fund on August 28, 2006, shall be transferred to the general revenue fund and the fund shall be abolished as of that date. All interest and moneys earned on investments from moneys in the fund shall be credited to the fund.

2. The governing body of any city not within a county, any county of the first classification without a charter form of government and a population of more than two hundred seven thousand but less than three hundred thousand, any county of the first classification with a population of more than nine hundred thousand, any city with a population of more than three hundred fifty thousand that is located in more than one county or any county of the first classification with a charter form of government and a population of more than six hundred thousand but less than nine hundred thousand may apply to the department of economic development for a grant from the contiguous property redevelopment fund. The department of economic development may promulgate the form for such applications in a manner consistent with this section. Grants from the fund may be made to the governing body to assist the body both acquiring multiple contiguous properties within such city and engaging in the initial redeveloping of such properties for future use as private enterprise. For purposes of this section, "initial redeveloping" shall include all allowable costs, as that term is defined in section 447.700, and any other costs involving the improvement of the property to a state in which its redevelopment will be more economically feasible than such property would have been if such

improvements had not been made.

3. In awarding grants pursuant to this section, the department shall give preference to those projects which propose the assembly of a greater number of acreage than other projects and to those projects which show that private interest exists for usage of the property once any redevelopment aided by grants pursuant to this section is completed.

4. The department of economic development may promulgate rules for the enforcement of this section. No rule or portion of a rule promulgated pursuant to this section shall take effect unless it has been promulgated pursuant to chapter 536, RSMo.

5. The provisions of this section shall expire on August 28, 2006.